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106TH CONGRESS
1ST SESSION

H. R. 275

To amend the Internal Revenue Code of 1986 to provide for an exception from penalty tax and exclusion from income for certain amounts withdrawn from certain retirement plans for qualified long-term care insurance and a credit for taxpayers with certain persons requiring custodial care in their households.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1999

Mr. SMITH of New Jersey (for himself and Mr. SHAYS) introduced the following bill; which was referred to the Committee on Ways and Means

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A BILL

To amend the Internal Revenue Code of 1986 to provide for an exception from penalty tax and exclusion from income for certain amounts withdrawn from certain retirement plans for qualified long-term care insurance and a credit for taxpayers with certain persons requiring custodial care in their households.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Long-Term Care Advancement Act of 1999".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. EXCEPTION FROM PENALTY TAX AND EXCLUSION FROM INCOME FOR AMOUNTS WITHDRAWN FROM CERTAIN RETIREMENT PLANS FOR QUALIFIED LONG-TERM CARE INSURANCE.

(a) EXCEPTION FROM PENALTY TAX.—Paragraph (2) of section 72(t) (relating to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new subparagraph:

"(G) PREMIUMS FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.—

"(i) IN GENERAL.—Distributions to an individual from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3), to the extent such distributions do not exceed the premiums for a qualified long-term

care insurance contract for such individual or the spouse of such individual. In applying subparagraph (B), such premiums shall be treated as amounts not paid for medical care.

"(ii) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 213 for any amount described in this subparagraph unless the taxpayer elects to have this subparagraph not apply to such amount.

"(iii) QUALIFIED LONG-TERM CARE INSURANCE CONTRACT.—For purposes of this subparagraph, the term 'qualified long-term care insurance contract' has the meaning given such term by section 7702B(b), except that such term includes only such contracts which are licensed for sale in the State in which the policy was purchased."

(b) EXCLUSION FROM INCOME FOR AMOUNTS WITHDRAWN FROM CERTAIN PLANS TO PAY LONG-TERM CARE PREMIUMS.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 139 as section

140 and by inserting after section 138 the following new section:

"SEC. 139. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS AND SECTION 401(k) PLANS FOR LONG-TERM CARE INSURANCE.

"(a) GENERAL RULE.—The amount which would (but for this section) be includible in the gross income of an individual for the taxable year by reason of distributions from any individual retirement plan (within the meaning of section 7701(a)(37)) or qualified cash or deferred arrangement (within the meaning of section 401(k)) shall be reduced (but not below zero) by the eligible long-term care premiums (as defined in section 213(d)(10)) paid by such individual during such taxable year for any qualified long-term care insurance contract covering such individual or the spouse of such individual.

"(b) SPECIAL RULES FOR SECTION 401(k) PLANS.—

"(1) WITHDRAWALS CANNOT EXCEED ELECTIVE CONTRIBUTIONS UNDER QUALIFIED CASH OR DEFERRED ARRANGEMENT.—This section shall not apply to any distribution from a qualified cash or deferred arrangement (within the meaning of section 401(k)) to the extent the aggregate amount of such distributions for the use described in subsection (a) exceeds the aggregate employer contributions made

pursuant to the employee's election under section 401(k)(2).

"(2) WITHDRAWALS NOT TO CAUSE DISQUALIFICATION.—A plan shall not be treated as failing to satisfy the requirements of section 401, and an arrangement shall not be treated as failing to be a qualified cash or deferred arrangement (within the meaning of section 401(k)), merely because under the plan or arrangement distributions are permitted which are excludable from gross income by reason of this section.

"(c) QUALIFIED LONG-TERM CARE INSURANCE CONTRACT.—For purposes of this section, the term 'qualified long-term care insurance contract' has the meaning given such term by section 7702B(b), except that such term includes only such contracts which are licensed for sale in the State in which the taxpayer purchased the policy."

(c) DISTRIBUTIONS PERMITTED FROM CERTAIN PLANS TO PAY LONG-TERM CARE PREMIUMS.—

(1) Section 401(k)(2)(B)(i) is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) the date distributions for premiums for a long-term care insurance contract (as defined in section 139(c)) for coverage of such individual or the spouse of such individual are made, and".

(2) Section 403(b)(11) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) for the payment of premiums for a long-term care insurance contract (as defined in section 139(c)) for coverage of the employee or the spouse of the employee."

(3) Subparagraph (A) of section 457(d)(1) is amended by striking "or" at the end of clause (ii), by striking "and" at the end of clause (iii) and inserting "or", and by inserting after clause (iii) the following new clause:

"(iv) the date distributions for premiums for a long-term care insurance contract (as defined in section 139(c)) for coverage of such individual or the spouse of such individual are made, and".

(d) CONFORMING AMENDMENTS.—

(1) Section 72(t)(2)(B) is amended by striking "subparagraph (A), (C), or (D)" and inserting "subparagraph (A), (C), (D), or (G)".

(2) Section 401(k) is amended by adding at the end the following new paragraph:

"(13) CROSS REFERENCE.—

"For provision permitting tax-free withdrawals for payment of long-term care premiums, see section 139."

(3) Section 408(d) is amended by adding at the end the following new paragraph:

"(8) CROSS REFERENCE.—

"For provision permitting tax-free withdrawals from individual retirement plans for payment of long-term care premiums, see section 139."

(4) The table of sections for part III of subchapter B of chapter 1 is amended by striking the last item and inserting the following new items:

"Sec. 139. Distributions from individual retirement plans and section 401(k) plans for long-term care insurance.
"Sec. 140. Cross references to other Acts."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1998.

SEC. 3. REFUNDABLE CREDIT FOR TAXPAYERS WITH CERTAIN PERSONS REQUIRING CUSTODIAL CARE IN THEIR HOUSEHOLDS.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. CREDIT FOR TAXPAYERS WITH CERTAIN PERSONS REQUIRING CUSTODIAL CARE IN THEIR HOUSEHOLDS.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual who maintains a household which includes as a member one or more qualified persons, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $500 for each such person.

"(b) LIMITATION BASED ON ADJUSTED GROSS INCOME.—

"(1) IN GENERAL.—The amount of the credit allowable under subsection (a) shall be reduced (but not below zero) by $50 for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds the threshold amount. For purposes of the preceding sentence, the term 'modified adjusted gross income' means adjusted gross in-

come increased by any amount excluded from gross income under section 911, 931, or 933.

"(2) THRESHOLD AMOUNT.—For purposes of paragraph (1), the term 'threshold amount' means—

"(A) $110,000 in the case of a joint return,

"(B) $75,000 in the case of an individual who is not married, and

"(C) $55,000 in the case of a married individual filing a separate return.

For purposes of this paragraph, marital status shall be determined under section 7703.

"(c) QUALIFIED PERSON.—For purposes of this section, the term 'qualified person' means any individual—

"(1) who is a father or mother of the taxpayer, his spouse, or his former spouse or who is an ancestor of such a father or mother,

"(2) who is a chronically ill individual (as defined in section 7702B(c)(2)),

"(3) who has as his principal place of abode for more than half of the taxable year the home of the taxpayer, and

"(4) whose name and TIN are included on the taxpayer's return for the taxable year.

For purposes of paragraph (1), a stepfather or stepmother shall be treated as a father or mother.

"(d) SPECIAL RULES.—For purposes of this section, rules similar to the rules of paragraphs (1), (2), (3), and (4) of section 21(e) shall apply.

"(e) PHASE-IN.—In the case of a taxable year beginning in a calendar year before 2003, subsection (a) shall be applied by substituting the applicable amount determined under the following table for the $500 amount appearing in subsection (a):

"If the calendar year is:	The applicable amount is:
1999	$250
2000	$350
2001	$400
2002	$450.

"(f) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2003, the $500 amount contained in subsection (a) shall be increased by an amount equal to—

"(1) such dollar amount, multiplied by

"(2) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2002' for 'calendar year 1992' in subparagraph (B) thereof.

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If any amount as adjusted under the preceding sentence is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50."

(b) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking the last item and inserting the following:

"Sec. 35. Credit for taxpayers with certain persons requiring custodial care in their households.
"Sec. 36. Overpayments of tax."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

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